

REMARKS/ARGUMENTS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-5, 7, 8, 10, 11 and 13-19 are presently pending in this application, Claims 8, 13 and 14 having been withdrawn from further consideration by the Examiner, Claims 1, 2 and 10 having been amended by the present amendment.

In the outstanding Office Action, Claims 1 and 3 were rejected under 35 U.S.C. §102(b) as being anticipated by Weld (U.S. Patent 3,266,500); Claims 1-3, 5, 15, 18 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by Clavin (U.S. Patent 4,653,483); Claim 10 was rejected under 35 U.S.C. §102(b) as being anticipated by Tippetts (U.S. Patent 2,419,922); Claims 1-4, 16 and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Hodgson (U.S. Patent 3,654,835); Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Clavin in view of Istvan et al. (Text book, Pressure Sensitive Adhesive Technology, Marcel Dekker Inc., 1997, Pages 1 and 136); Claims 10 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hodgson; and Claims 1-5, 7, 10, 11 and 15-19 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1 and 2 of U.S. Patent 6,733,856 in view of Istvan et al.

Claims 1, 2 and 10 have been amended herein. These amendments are believed to be supported by the specification, drawings and claims as originally filed. For example, Claims 1, 2 and 10 are supported by Figures 3, 4 and 12-14 as well as page 7, line 11, to page 8, line 1, page 11, line 16, to page 12, line 11, and page 17, line 17, to page 19, line 16, of the specification. Hence, no new matter is believed to be added thereby. If, however, the

Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work in a joint effort to derive mutually satisfactory claim language.

Before addressing the outstanding Office Action, a brief summary of Claim 1 as currently amended is believed to be helpful. Amended Claim 1 is directed to a double eyelid forming article of manufacture for forming a fold on an eyelid of a user, and the article includes a resiliently stretchable tape member having an adjustable length and flat upper and lower surfaces, the tape member having straight side edges and a uniform cross section along a longitudinal direction of the tape member in an original unstretched state, and a layer of adhesive on at least one of the flat upper and lower surfaces of the tape member. The tape member comprises a synthetic resin material which is resiliently stretchable such that even after the tape member is stretched, the synthetic resin material of the tape member allows an amount of recoil back to the original unstretched state of the tape member, and the resiliently stretchable tape member provides a length sufficient to form a fold on an eyelid and a width sufficient to form the fold by breaking into the eyelid when the resiliently stretchable tape member is stretched, pressed and adhered to the eyelid.

Weld is directed to an artificial eyelash and does not teach or suggest “a resiliently stretchable tape member having an adjustable length and flat upper and lower surfaces, the tape member having straight side edges and a uniform cross section along a longitudinal direction of the tape member in an original unstretched state ..., wherein the tape member comprises a synthetic resin material which is resiliently stretchable such that even after the tape member is stretched, the synthetic resin material of the tape member allows an amount of recoil back to the original unstretched state of the tape member, and the resiliently stretchable tape member provides a length sufficient to form a fold on an eyelid and a width sufficient to form the fold by breaking into the eyelid when the resiliently stretchable tape

member is stretched, pressed and adhered to the eyelid” as recited in amended Claim 1. On the other hand, Weld describes an artificial eyelash which adheres to an eyelid so as to conform to the contour of the upper eyelid and provide an artificial eyelash without being stretched. As such, the original shape of the Weld tape has an elongated strip with arcuate longitudinal edges and varying cross-section along the longitudinal direction, not straight side edges and a uniform cross section. The subject matter recited in Claim 1 is therefore clearly distinguishable from Weld.

Clavin is directed to a cosmetic tape. However, Clavin fails to teach or suggest “a resiliently stretchable tape member having an adjustable length and flat upper and lower surfaces, the tape member having straight side edges and a uniform cross section along a longitudinal direction of the tape member in an original unstretched state ..., wherein the tape member comprises a synthetic resin material which is resiliently stretchable such that even after the tape member is stretched, the synthetic resin material of the tape member allows an amount of recoil back to the original unstretched state of the tape member, and the resiliently stretchable tape member provides a length sufficient to form a fold on an eyelid and a width sufficient to form the fold by breaking into the eyelid when the resiliently stretchable tape member is stretched, pressed and adhered to the eyelid” as recited in amended Claim 1. Instead, the Clavin tape is adhered on the eyelid without being stretched but also has a shape of an elongated strip with arcuate longitudinal edges and varies its cross-section over the longitudinal direction. Hence, the subject matter recited in Claim 1 is also distinguishable from Clavin.

Tippetts, Hodgson and Istvan et al. are directed to a method of producing reinforcing elements, adhesive materials and pressure-sensitive adhesive technology, respectively. Nevertheless, none of Tippetts, Hodgson and Istvan et al. teaches or suggests “a resiliently

stretchable tape member having an adjustable length and flat upper and lower surfaces, the tape member having straight side edges and a uniform cross section along a longitudinal direction of the tape member in an original unstretched state ..., wherein the tape member comprises a synthetic resin material which is resiliently stretchable such that even after the tape member is stretched, the synthetic resin material of the tape member allows an amount of recoil back to the original unstretched state of the tape member, and the resiliently stretchable tape member provides a length sufficient to form a fold on an eyelid and a width sufficient to form the fold by breaking into the eyelid when the resiliently stretchable tape member is stretched, pressed and adhered to the eyelid” as recited in amended Claim 1. Specifically, Tippetts describes a process for applying an adhesive or bonding agent to a reinforcing member such as cords. Hodgson describes tapes used in surgical articles such as suture strips and decorative cosmetic products for theatrical make-up such as wrinkle producers. The wrinkle producer is stretched and adhered to a skin at the right angle with respect to the direction of a wrinkle to be formed by its resilient elasticity. Istvan et al. describes providing a silicon coated release liner with a pressure sensitive medical tape. Therefore, it is believed that the subject matter recited in Claim 1 is distinguishable from Tippetts, Hodgson and Istvan et al.

Because none of Weld, Clavin, Tippetts, Hodgson and Istvan et al. discloses the tape member as recited in amended Claim 1, even the combined teachings of these cited references would not render the subject matter recited in Claim 1 obvious.

Likewise, Claim 10 as currently amended recites “a resiliently stretchable string member having an adjustable length and having arcuate upper and lower surfaces, the string member having straight edges and a uniform cross section along a longitudinal direction of the string member in an original unstretched state ..., wherein the string member comprises a

synthetic resin material which is resiliently stretchable such that even after the string member is stretched, the synthetic resin material of the string member allows an amount of recoil back to the original unstretched state of the string member, and the resiliently stretchable string member provides a length sufficient to form a fold on an eyelid and a width sufficient to form the fold by breaking into the eyelid when the resiliently stretchable string member is stretched, pressed and adhered to the eyelid.” Hence, it is believed that substantially the same arguments set forth above also apply to Claim 10. Thus, the subject matter recited in Claim 10 is believed to be distinguishable from Weld, Clavin, Tippetts, Hodgson and Istvan et al.

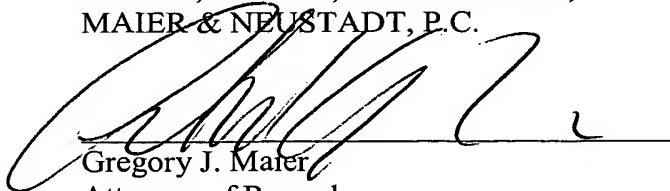
With regard to the rejection based on the non-statutory obviousness-type double patenting, submitted herewith is a terminal disclaimer to overcome the rejection based on Claims 1 and 2 of U.S. Patent 6,733,856. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

For the foregoing reasons, Claims 1 and 10 are believed to be allowable. Furthermore, since Claims 2-5, 7, 11 and 15-19 depend directly or indirectly from either Claim 1 or 10, these claims are believed to be allowable as well.

In view of the amendments and discussions presented above, Applicant respectfully submits that the present application is in condition for allowance, and an early action favorable to that effect is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

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